

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 507B.12 and 513C.12 and chapter 514D, the Insurance Division hereby amends Chapter 15, “Unfair Trade Practices,” and Chapter 36, “Individual Accident and Health—Minimum Standards,” Iowa Administrative Code.

The rules in Chapter 15 set forth prohibited unfair trade practices, including provisions prohibiting unfair discrimination against individuals of the same class. The rules in Chapter 36 provide reasonable standardization and simplification of terms and coverages of individual accident and sickness insurance policies. The amendments to the rules implement the Patient Protection and Affordable Care Act (Pub. L. 111-148, 124 Stat. 119, H.R. 3590, enacted March 23, 2010) by setting forth the requirements and procedures to be followed by insurance companies for individual health insurance coverage for children under the age of 19. Persons and entities shall comply with the amendments adopted herein beginning June 8, 2011, for policies offered for sale on or after June 8, 2011.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 23, 2011, as **ARC 9398B**. A public hearing was held on March 23, 2011, at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa. Comments were received, and the following changes were made.

In paragraph 36.13(2)“b,” the term “policy” was added to clarify the term “child-only applicant.” This change was made in several other places in the amendments for similar clarification purposes. Also, the dates for the open enrollment period were delayed one month.

In paragraph 36.13(2)“d,” the phrase “individuals up to the age of 19” was changed to “individuals under the age of 19,” and the term “health benefit plans available to children under the age of 19” was changed to “child-only policies” to be consistent with the rest of the rule.

In paragraph 36.13(2)“e,” the phrase “carriers shall not offer” was changed to “carriers are not required to offer” in the first sentence so that a carrier was not prohibited from offering child-only policies outside of an open enrollment period. Also, in the third sentence, the phrase “to a child under the age of 19” was deleted because it is implied within the definition of child-only policy.

In subparagraphs 36.13(2)“e”(1), (5) and (6), clarifications were made regarding whether the events described applied to the child or to the child’s parent or guardian.

These amendments are intended to implement Iowa Code chapters 507B, 513C, and 514D and the Patient Protection and Affordable Care Act (Pub. L. 111-148, 124 Stat. 119, H.R. 3590, enacted March 23, 2010).

These amendments will become effective June 8, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 15.11(6):

15.11(6) *Discrimination relating to children under the age of 19.* It is an unfair trade practice to:

a. Encourage individuals or groups to refrain from filing an application with an insurer for coverage for a child under the age of 19 because of the child’s health status, claims experience, industry, occupation, or geographic location;

b. Encourage or direct children under the age of 19 to seek coverage from another insurer because of the child’s health status, claims experience, industry, occupation, or geographic location; and

c. Encourage an employer to exclude an employee from coverage.

ITEM 2. Adopt the following **new** rule 191—36.13(513C,514D):

191—36.13(513C,514D) Individual health insurance coverage for children under the age of 19.

36.13(1) *Purpose, applicability and effective date.*

a. The purpose of this rule is to set forth the requirements and procedures to be followed for individual health insurance coverage for children under the age of 19.

b. This rule shall apply to all “carriers” as defined in Iowa Code subsection 513C.3(5). For purposes of this rule, “carrier” means the same as it is defined in Iowa Code subsection 513C.3(5).

c. For purposes of this rule, a “child-only” policy means a health benefit plan delivered or issued for delivery to an individual who is the primary subscriber on the policy and who is under the age of 19. A “child-only” policy does not include a health benefit plan that is delivered or issued for delivery to a primary subscriber who is 19 years of age and older but that insures persons under the age of 19.

d. This rule shall become effective June 8, 2011, for policies sold or issued on or after that date.

36.13(2) Coverage requirement for children under the age of 19, open enrollment period and notice.

a. Carriers doing business in the state of Iowa shall offer coverage to primary subscribers under the age of 19 during the open enrollment period as established in this rule.

b. The open enrollment period for child-only policy applicants shall commence on July 1, 2011, and end on August 14, 2011. Carriers shall provide subsequent open enrollment periods for child-only policy applicants for the periods of July 1 through August 14 in the years 2012 and 2013.

c. A carrier shall advertise the open enrollment period for children under the age of 19, including the availability of child-only policy coverage, on the carrier’s Web site and through any other media as determined by the carrier. The advertising shall be conspicuous and provided in a manner reasonably calculated to give potential applicants timely and informative notice regarding the annual open enrollment period.

d. For child-only policy applications received during the open enrollment period, individual health insurance coverage shall be offered on a guaranteed-issue basis to individuals under the age of 19. The child-only policies shall be in compliance with federal and state law and shall be filed with the Iowa insurance division in accordance with Iowa law.

e. Carriers are not required to offer child-only policies outside the open enrollment periods provided in this subrule. However, a carrier shall permit a child under the age of 19 to apply and enroll for child-only policy coverage during a special enrollment period under the terms of the child-only policy if the child has experienced a qualifying event. A child-only policy issued during a special enrollment period after a qualifying event shall be issued on a guaranteed basis and shall not impose any preexisting conditions. For purposes of this paragraph, a “qualifying event” shall mean one or more of the following:

(1) The child lost creditable coverage as defined in Iowa Code section 514A.3B(3) as a result of termination of the parent’s or guardian’s employment or eligibility, the involuntary termination of the creditable coverage, death of the child’s parent or guardian, or the divorce or legal separation of the child’s parent or guardian, and a request for special enrollment is made within 30 days after termination of the creditable coverage.

(2) The child became a resident of Iowa during a month that was not the child’s birth month, and a request for coverage is made within 30 days after the child became a resident of Iowa.

(3) An event of marriage, birth, adoption or placement for adoption occurs and the request for special enrollment is made within 30 days after the occurrence of the event.

(4) The child was covered under a mandated continuation of a group health plan or group health insurance coverage plan until the coverage under that plan was exhausted.

(5) A court has ordered that coverage be provided for a spouse or minor or dependent child under a covered parent’s or guardian’s health insurance coverage and the request for enrollment is made within 30 days after issuance of the court order.

(6) The child changes status and the parent or guardian becomes an eligible employee and requests enrollment within 63 days after the date of the change in status.

f. An individual applying for coverage during the open enrollment period or during a special enrollment period shall not be eligible for guaranteed-issue coverage if the individual has other coverage or if other coverage is available at the time of the effective date of coverage. Other coverage shall not include coverage through the Iowa Comprehensive Health Association (HIPIOWA) or HIPIOWA-FED.

g. A carrier that issues a policy pursuant to this rule shall comply with all other applicable statutes and administrative rules, both state and federal, regarding individual health benefit policies.

h. A child-only policy may be appropriately rated based on the health status of the child-only policy applicant.

ITEM 3. Amend **191—Chapter 36**, implementation sentence for Division I, as follows:
These rules are intended to implement Iowa Code chapters 507B, 510, 513C and 514D.

[Filed 4/15/11, effective 6/8/11]

[Published 5/4/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/4/11.